
FIRE PREVENTION AND BUILDING SAFETY COMMISSION
Department of Homeland Security**Written Interpretation of the State Building Commissioner****Interpretation #:** CEB-2022-24-ICC A117.1-2009-904**Building or Fire Safety Law Interpreted****[675 IAC 13-2.6-13](#) ICC A117.1-2009, Section 904 Sales and Service Counters****904.1 General.** Accessible sales and service counters and windows shall comply with Section 904 as applicable.**Exception:** Drive up only sales or service counters and windows are not required to comply with Section 904.**904.2 Approach.** All portions of counters required to be accessible shall be located adjacent to a walking surface complying with Section 403.**904.3 Sales and Service Counters.** Sales and service counters shall comply with Section 904.3.1 or 904.3.2. The accessible portion of the countertop shall extend the same depth as the sales and service countertop.**904.3.1 Parallel Approach.** A portion of the counter surface 36 inches (915 mm) minimum in length and 36 inches (915 mm) maximum in height above the floor shall be provided. Where the counter surface is less than 36 inches (915 mm) in length, the entire counter surface shall be 36 inches (915 mm) maximum in height above the floor. A clear floor space complying with Section 305, positioned for a parallel approach adjacent to the accessible counter, shall be provided.**904.3.2 Forward Approach.** A portion of the counter surface 30 inches (760 mm) minimum in length and 36 inches (915 mm) maximum in height above the floor shall be provided. A clear floor space complying with Section 305, positioned for a forward approach to the accessible counter, shall be provided. Knee and toe clearance complying with Section 306 shall be provided under the accessible counter.**Issue**

Whether a design in which the sole accessible portion of a service counter is separated from the standard height portion of the service counter by a partition and door is compliant under Section 904 of the *ICC A117.1-2009 Standard* (A117.1).

Interpretation of the State Building Commissioner

No. Separating the sole accessible portion of the service counter from the standard height portion by a partition and door is not compliant under Section 904 of *A117.1*.

Rationale

The point of accessibility regulations is to allow disabled persons access to buildings, their amenities, and features equal to the access enjoyed by the able-bodied. But beyond the mere dimensional or functional differences in accessible building features, intrinsic in the entire accessibility effort is achieving the overarching goal of equal treatment of individuals. Separation is antithetical to equality. In fact, it promotes, even if unintentionally, the idea that the disabled are somehow considered second-class citizens. That separation should be avoided is demonstrated by many of our accessibility rules in which the accessible features are required to be placed in the same spaces as those features designed for the able-bodied. Toilet rooms are required to contain either accessible fixtures, or duplicate fixtures that are accessible; the accessible fixtures are not to be provided only in a separate toilet room in a different location. A sink in an employee break room is required to be placed at a height accessible by the disabled, and not located in a different break room designated for use by disabled employees. Where accessible features and amenities are required by the code, there is a reasonable presumption that unless specified otherwise, they are expected to be found in the same area as the standard features and amenities.

The case at the center of this request is a health care provider's office, with a customer service counter in the lobby. Most of that counter is at standard height for a standing adult patient. The sole lower portion of the counter, presumably at a height compliant with accessibility rules, is located at one end, and is separated from the rest of the counter by a partition with a door. The designer states the intent is to utilize that portion of counter for check-in of disabled patients, and check-out for all patients, the separating partition and door being required by HIPPA privacy regulations.

If the space layout is designed properly (a matter we are not examining here), the partition and door can be made to comply with accessible clearance requirements. What must also be considered however is how the design's function affects patients – those who are disabled and those who are not – when viewed in the light of a goal of equal access to the features and amenities contained in the lobby, and the activities that take place there. When

viewed in this light, a design in which the disabled must utilize a different, separated space than others do in conducting the same activity as their able-bodied counterparts is inconsistent with the spirit and intent of accessibility regulations and is in our view therefore inequitable.

In addition to questions of separation, an arguably larger practical issue results from the activities planned for the design's accessible space. Allowing one group of individuals to check in at a counter designated for that purpose, while requiring another group of individuals to conduct that activity in a separate space *that is designed for different purposes* compounds inequity. It creates a plausible scenario in which the accessible-height counter is occupied by a patient checking out, while a new patient arrives in the lobby, expecting to check in, but finding that their ability to do so without wait depends solely on their physical abilities. The able-bodied patient has access to a check-in counter, but the disabled patient must wait until another patient completes an unrelated activity in a different space. This is not equal access. To be sure, there will always be occasions during which building occupants, disabled or not, must wait to utilize required features and amenities, but the need to wait must not result solely from a disability.

Finally, accessibility regulations do not state what type, number, or frequency of activities must occur at a service counter before an accessible-height portion must be provided. While not mentioned in the interpretation request, Section 1109.12.3 of the *2014 Indiana Building Code* states that when service counters are provided, at least one accessible counter must be provided for each type of activity. Sending the disabled to the checkout counter for their check-in activities is not in keeping with the equal access intent of that regulation.

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